



# California Fair Political Practices Commission

November 16, 1987

Gerald M. Caton  
City Manager  
P.O. Box 1007  
Cudahy, California 90201

Re: Your Request for Advice  
Our File No. A-87-260

Dear Mr. Caton:

You have requested advice about the application of the Political Reform Act (the "Act")<sup>1/</sup> to the city of Cudahy's newsletter.

## QUESTIONS

1. May the city publish the name and photograph of a city council member in the city newsletter after the member has declared his or her candidacy for elected office?

2. May the city publish the name and photograph of a city commission member in its newsletter once the member declares his or her candidacy for office?

3. May the city publish the name and photograph of a local citizen in its newsletter once the citizen declares his or her candidacy for office?

## CONCLUSION

At this time we can not advise you if the city's newsletter fits the definition of being sent "by or on behalf of any elected officer" and thus is subject to recently amended Section 89001. The Commission is in the process of amending present Regulation 18901 to define mass mailings on behalf of local officials. The regulation now provides only for state officials. We do not know if the amended regulation's provisions eventually will exempt a newsletter, such as Cudahy's, from the coverage of Section 89001 as not being sent on behalf of an elected official. We urge you and others interested in this topic to give us your ideas about revisions to the regulation.

---

<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise noted. Commission regulations appear at 2 California Administrative Code Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Administrative Code.

Nevertheless, the city may publish the name and photograph of an appointed official or that of a local citizen even after he or she has filed a declaration of candidacy. The Act applies only to elected officials who already are in office.

#### FACTS

The city of Cudahy publishes a newsletter. The names and photographs of the mayor and city council members appear on the address page with the city's logotype above the photographs.

#### ANALYSIS

Amended Section 89001, which took effect on January 1, 1987, prohibits the city from sending at public expense a newsletter of 200 copies or more by or on behalf of an elected official who has filed a declaration of candidacy for local, state or federal office. (Section 82041.5.) The current regulation implementing this section, however, defines when a mailing is sent by or on behalf of a state elected officer and not a local official. (Regulation 18901, copy enclosed.) Consequently, this regulation does not specifically address the type of newsletter sent by Cudahy.

The Commission now is preparing amendments to regulation 18901 to cover mass mailings sent on behalf of local officials. The definition of when a mass mailing is sent "by or on behalf" of an elected official may change. On October 29, 1987, Commission staff held a workshop to receive comments about amending the regulation. We welcome more suggestions. The Office of Administrative Law will notice the amendments to the regulation and the Commission will hold a public hearing on their adoption, probably in March 1988.

Nevertheless, subsection (c) of Regulation 18901 may give some guidance about how to determine whether a mass mailing is being sent by or on behalf of an elected official.

(c) A mailing will not be deemed to be sent "by or on behalf of any elected state officer" if the mailing meets all of the following criteria:

(1) It is mailed by a state agency in the executive branch, a legislative committee or other governmental entity;

(2) The stationery, forms and envelopes used for the mailing are the official stationery, forms and envelopes of the state agency, legislative committee or other governmental entity; and

(3) The elected state officer's name appears, if at all, only on the standard letterhead or logotype of the stationery, forms or envelopes and there are no other references to the officer, including his or her signature, in the mailing.

Regulation 18901(c).

Thus if a local governmental agency mails a newsletter, puts the elected official's name on the standard letterhead only, and does not mention the official anywhere else in the mailing, the newsletter may not be considered a mass mailing sent on behalf of the elected official. The regulation, however, does not mention photographs.

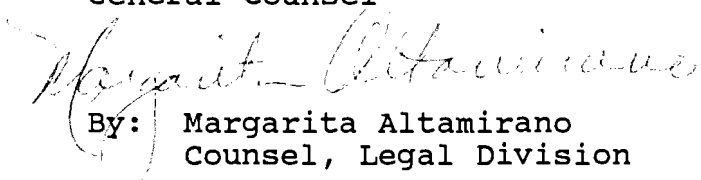
You also should look at Elections Code Sections 11800 and 11801, which concern mass mailings at public expense. Although the legislature has repealed these sections, they are in effect through December 31, 1987.

Section 89001 does not apply to appointed officials or private citizens who have filed for candidacy. Therefore, the city may print the names and photographs of such persons in its newsletter even if they are candidates for office.

I hope this letter answers your questions. Please call me at (916) 322-5901 if you are interested in commenting on 18901 or if you have a question about this letter.

Sincerely,

Diane M. Griffiths  
General Counsel



By: Margarita Altamirano  
Counsel, Legal Division

DMG:MA:da



# CITY OF CUDAHY CALIFORNIA

*Incorporated November 10, 1960*

P. O. Box 1007  
5220 Santa Ana Street  
Cudahy, California 90201  
(213) 773-5143

October 16, 1987

Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804-0807

Attention: Mr. Bob Leidigh

Dear Mr. Leidigh:

Enclosed is a copy of our most recent newsletter. Please note the pictures of the Mayor and Council Members on the folded page where the bulk rate box is located. It is a very common practice for the cities in my area to use this format. Would the new regulations require the City to remove the pictures of Council Members from this page once they have declared their candidacy for office?

Many times other City officials, e.g., Planning Commissioners, Parks and Recreation Commissioners, etc. have their pictures appear in the City newsletter. If they declare their candidacy for office, should their names and pictures also not appear in the newsletter?

Lastly, prominent citizens often have their pictures appear in the newsletter, e.g., Chamber of Commerce President, etc. Do the same rules apply to them if they file a declaration of candidacy for City Council?

Thank you for the time you gave me on the phone on October 16th. I look forward to hearing from you.

Sincerely,

Gerald M. Caton  
City Manager/City Clerk

GMC/dpt

Enclosure

87 - 260



# CITY OF CUDAHY CALIFORNIA

*Incorporated November 10, 1960*

P. O. Box 1007  
5220 Santa Ana Street  
Cudahy, California 90201  
(213) 773-5143

October 16, 1987

Fair Political Practices Commission  
P.O. Box 807  
Sacramento, CA 95804-0807

Attention: Mr. Bob Leidigh

Dear Mr. Leidigh:

Enclosed is a copy of our most recent newsletter. Please note the pictures of the Mayor and Council Members on the folded page where the bulk rate box is located. It is a very common practice for the cities in my area to use this format. Would the new regulations require the City to remove the pictures of Council Members from this page once they have declared their candidacy for office?

Many times other City officials, e.g., Planning Commissioners, Parks and Recreation Commissioners, etc. have their pictures appear in the City newsletter. If they declare their candidacy for office, should their names and pictures also not appear in the newsletter?

Lastly, prominent citizens often have their pictures appear in the newsletter, e.g., Chamber of Commerce President, etc. Do the same rules apply to them if they file a declaration of candidacy for City Council?

Thank you for the time you gave me on the phone on October 16th. I look forward to hearing from you.

Sincerely,

Gerald M. Caton  
City Manager/City Clerk

GMC/dpt

Enclosure



# California Fair Political Practices Commission

October 20, 1987

Gerald M. Caton  
City Manager/City Clerk  
P.O. Box 1007  
Cudahy, CA 90201

Re: 87-260

Dear Mr. Caton:

Your letter requesting advice under the Political Reform Act was received on October 19, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Kathryn Donovan, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).)

You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

*Diane M. Griffiths*  
Diane M. Griffiths  
General Counsel

DMG:plh